

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

AMERICAN CIVIL LIBERTIES UNION OF)
MASSACHUSETTS and LAWYERS FOR)
CIVIL RIGHTS,)
Plaintiffs,)
v.) C.A. No. 19-12564-MBB
UNITED STATES DEPARTMENT OF)
HOMELAND SECURITY, IMMIGRATION)
AND CUSTOMS ENFORCEMENT,)
Defendants.)

DEFENDANTS' STATUS REPORT

Pursuant to this Court’s Minute Order dated March 9, 2020, Defendants U.S. Immigration and Customs Enforcement (“ICE”) and United States Department of Homeland Security’s Office of Intelligence and Analysis (I&A) (collectively, “Defendants”), submit this status report.

I. ICE

1. On December 23, 2019, ACLUM and LCR, (collectively, “Plaintiffs”) filed a complaint alleging that DHS and ICE (collectively, “Defendants”) had failed to respond to two Freedom of Information Act (“FOIA”) requests which are the subject of this litigation.

2. Plaintiffs' first FOIA request was submitted by the ACLUM and received by ICE on June 21, 2019. This request sought records concerning how law enforcement officers profile gang members. On July 1, 2019 the ICE FOIA Office informed the ACLUM that the FOIA request was too broad in scope, did not specifically identify the records sought, or only posed

questions to the agency. The ICE FOIA Office asked the ACLUM to resubmit the request the containing a reasonable description of the records seeking within thirty (30) days from the date of ICE's letter otherwise the case will be administratively closed. The ACLUM never re-submitted a narrowed request, but instead filed an appeal on July 12, 2019 indicating that the ICE FOIA Office had improperly denied their FOIA request. On appeal, ICE reviewed the administrative record and determined that new search(es) or, modifications to the existing search(es), could be made in regard to category number 10 of the FOIA request. ICE remanded the appeal to the ICE FOIA Office for processing and re-tasking to the appropriate agency/office(s) to obtain any responsive documents with respect to category number 10. Additionally, the ICE FOIA Office affirmed the finding that the remaining categories of requested information was too broad.

3. Plaintiffs' second FOIA request was submitted by ACLUM and LCR and it was received by ICE on October 16, 2019. The request sought records concerning the Warrant Service Officer (WSO) program. The ICE FOIA Office tasked the appropriate program offices and collected some potentially responsive records which are ready for processing. In the previous JSR, ICE agreed to process up to 500 pages concerning this FOIA request for release to Plaintiffs on or before April 3, 2020. In fact, ICE has processed the 500 pages; however, due to circumstances outside of ICE's control, the production release has been delayed. ICE seeks to complete production release on or before April 9, 2020. In addition, ICE has directed Plaintiffs to a public website at: <https://www.ice.gov/287g> that provides links to all of the WSO Memorandum of Agreements that ICE has entered into since March 2020. The information on this public website is responsive to Plaintiff's FOIA request for "all memoranda of Agreement or other

contracts executed by ICE in connection with WSO program, including any state or local government entity.”

4. ICE has assigned four program offices to conduct searches for responsive records.

Three program offices have already provided potentially responsive records to the ICE FOIA Office for processing. There is one outstanding search due to circumstances outside of ICE’s control. This search will be accomplished as soon as is practical.

II. DHS’ OFFICE OF INTELLIGENCE AND ANALYSIS (I&A)

The DHS Office of Intelligence and Analysis is in the process of conducting its search for documents that are responsive to Plaintiff’s Second FOIA Request. It has located documents responsive to the Request. Its program staff and Freedom of Information staff were asked to complete its searches by this date. However, the staff has encountered serious delays associated with the requirement that they shift from office work to work from home – as is the case with the ICE staff -- andd they have, in addition, been overwhelmed with assignments. At this time, it is expected that the document search will be completed by April 15, 2020, and that preliminary document and page counts will be provided to Plaintiffs by April 30, 2020. It is expected that document production will begin on May 30, 2020, and expected that evaluating and preparing the documents for production and production will occur at the rate of 250 pages per month thereafter.

Respectfully Submitted,

ANDREW E. LELLING
United States Attorney

By: */s/ Anita Johnson*
ANITA JOHNSON
Assistant United States Attorney

United States Attorney's Office
John Joseph Moakley U.S. Courthouse
One Courthouse Way - Suite 9200
Boston, MA 02210
(617) 748-3266
Anita.Johnson@usdoj.gov

CERTIFICATE OF SERVICE

I certify that this document will be filed through the electronic filing system of the Court, which system will serve counsel for Plaintiffs electronically, on this third day of April 2020.

/s/ Anita Johnson
Assistant United States Attorney